

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

VANDA PHARMACEUTICALS INC.,

Plaintiff,

v.

TEVA PHARMACEUTICALS USA, INC., et al.,

Defendants.

C.A. No. 18-651-CFC
(Consolidated)

JOINT STIPULATION AND ~~PROPOSED~~ ORDER
REGARDING SCHEDULE FOR PRETRIAL EXCHANGES

WHEREAS, the Court previously entered a Scheduling Order in the above-captioned action, setting a deadline for Joint Proposed Pretrial Order of February 16, 2022, D.I. 206, 238;

WHEREAS, the parties to the above-captioned actions have negotiated dates for exchange of pretrial documents in order to timely file the Joint Proposed Pretrial Order;

WHEREAS, the proposed schedule for pretrial exchanges does not alter any deadlines set by the Court, D.I. 206, 238;

WHEREAS, the parties have agreed to defer exchanging objections to exhibits as part of the pretrial order and, instead, will provide their objections to exhibits disclosed to the other side pursuant to the procedures in the pretrial order in advance of the use of such exhibits at trial.

NOW THEREFORE,

IT IS HEREBY STIPULATED AND AGREED, by and between the parties to the above-captioned action, subject to the approval of the Court, that the schedule for exchanging the Joint Pretrial Order and exhibits thereto is as follows:

Event(s)	Proposed Date
<p>Plaintiff provides:</p> <ul style="list-style-type: none"> • Draft of cover pleading for the Joint Proposed Pretrial Order • Ex. 1 – Draft of parties’ Joint Statement of Uncontested Facts • Ex. 2 – Plaintiff’s draft Statement of Contested Issues of Fact for issues on which Plaintiff bears the burden of proof • Ex. 4 – Plaintiff’s draft Statement of Contested Issues of Law for issues on which Plaintiff bears the burden of proof • Ex. 6 – Plaintiff’s Witness List • Ex. 8 – Plaintiff’s Deposition Designations • Ex. 10 – Plaintiff’s Trial Exhibit List (in excel format) <p>Defendants provide:</p> <ul style="list-style-type: none"> • Ex. 3 – Defendants’ draft Statement of Contested Issues of Fact for issues on which Defendants bear the burden of proof • Ex. 5 – Defendants’ draft Statement of Contested Issues of Law for issues on which Defendants bear the burden of proof • Ex. 7 – Defendants’ Witness List • Ex. 9 – Defendants’ Deposition Designations • Ex. 11 – Defendants’ Trial Exhibit List (in excel format) 	<p>January 11, 2022</p>

Event(s)	Proposed Date
<p>Plaintiff provides:</p> <ul style="list-style-type: none"> • Ex. 2 – Plaintiff’s revised Statement of Contested Issues of Fact (responsive to Defendants’ Statement of Contested Issues of Fact for issues on which Defendants bear the burden) • Ex. 4 – Plaintiff’s revised Statement of Contested Issues of Law (responsive to Defendants’ Statement of Contested Issues of Law for issues on which Defendants bear the burden) <p>Defendants provide:</p> <ul style="list-style-type: none"> • Revisions to the Joint Proposed Pretrial Order cover pleading • Ex. 1 – Revisions to draft of parties’ Joint Statement of Uncontested Facts • Ex. 3 – Defendants’ revised Statement of Contested Issues of Fact (responsive to Plaintiff’s Statement of Contested Issues of Fact for issues on which Plaintiff bears the burden) • Ex. 5 – Defendants’ revised Statement of Contested Issues of Law (responsive to Plaintiff’s Statement of Contested Issues of Law for issues on which Plaintiff bears the burden) 	January 21, 2022
Exchange topics for motions <i>in limine</i> . Each side is limited to three motions <i>in limine</i> . (D.I. 206 at ¶ 27.)	January 24, 2022
Meet and confer regarding topics for motions <i>in limine</i> , exhibit lists, and other issues regarding Joint Pretrial Order	January 26, 2022

Event(s)	Proposed Date
<p>Plaintiff provides:</p> <ul style="list-style-type: none"> • Ex. 9 – Objections and counter-designations to Defendants’ Deposition Designations • Ex. 12 – Joint Trial Exhibit List (in excel format) and copies of exhibits • Ex. 13 – Plaintiff’s Brief Statement of Intended Proofs • Ex. 15 – Plaintiff’s statement of additional matters • Ex. 17 – Plaintiff’s experts’ CVs • Ex. 19 – Motion(s) <i>in limine</i>. Each motion <i>in limine</i> may be supported by a maximum of three (3) pages of argument. (D.I. 206 at ¶ 27) <p>Defendants provide:</p> <ul style="list-style-type: none"> • Ex. 8 – Objections and counter-designations to Plaintiff’s Deposition Designations • Ex. 14 – Defendants’ Brief Statement of Intended Proofs • Ex. 16 – Defendants’ statement of additional matters • Ex. 18 – Defendants’ experts’ CVs • Ex. 20 – Motion(s) <i>in limine</i>. Each motion <i>in limine</i> may be supported by a maximum of three (3) pages of argument. (D.I. 206 at ¶ 27) 	<p>January 31, 2022</p>

Event(s)	Proposed Date
<p>Plaintiff provides:</p> <ul style="list-style-type: none"> Ex. 7 – Plaintiff’s objections to Defendants’ Witness List Ex. 8 – Plaintiff’s objections to Defendants’ counter-designations Ex. 20 – Responsive brief(s) to motion(s) <i>in limine</i>. Each motion <i>in limine</i> may be opposed by a maximum of three (3) pages of argument. (D.I. 206 at ¶ 27) <p>Defendants provide:</p> <ul style="list-style-type: none"> Ex. 6 – Defendants’ objections to Plaintiff’s Witness List Ex. 9 – Defendants’ objections to Plaintiff’s counter-designations Ex. 19 – Responsive brief(s) to motion(s) <i>in limine</i>. Each motion <i>in limine</i> may be opposed by a maximum of three (3) pages of argument (D.I. 206 at ¶ 27) 	February 7, 2022
<p>Plaintiff provides:</p> <ul style="list-style-type: none"> Ex. 19 – Reply brief(s) to motion(s) <i>in limine</i>. Reply briefs in support of a motion <i>in limine</i> may be a maximum of one (1) page of argument. (D.I. 206 at ¶ 27) <p>Defendants provide:</p> <ul style="list-style-type: none"> Ex. 20 – Reply brief(s) to motion(s) <i>in limine</i>. Reply briefs in support of a motion <i>in limine</i> may be a maximum of one (1) page of argument. (D.I. 206 at ¶ 27) <p>Meet and confer on any outstanding issues.</p>	February 11, 2022
File Joint Proposed Pretrial Order	February 16, 2022 (previously set by Court and unchanged)
Objections to exhibits	As set forth in the parties’ Joint [Proposed] Pretrial Order

For reference, the Exhibits (“Ex.”) that would accompany the Joint Proposed Pretrial Order and are mentioned above include:

Ex. 1 – Joint Statement of Uncontested Facts.

Ex. 2 – Plaintiff's Statement of Contested Issues of Fact.

Ex. 3 – Defendants' Statement of Contested Issues of Fact.

Ex. 4 – Plaintiff's Statement of Contested Issues of Law.

Ex. 5 – Defendants' Statement of Contested Issues of Law.

Ex. 6 – Plaintiff's Witness List (including Defendants' objections).

Ex. 7 – Defendants' Witness List (including Plaintiff's objections).

Ex. 8 – Plaintiff's Deposition Designations (including Defendants' objections and counter-designations; Plaintiff's objections to counter-designations and counter-counter-designations).

Ex. 9 – Defendants' Deposition Designations (including Plaintiff's objections and counter-designations; Defendants' objections to counter-designations and counter-counter-designations).

Ex. 10 – Plaintiff's Trial Exhibit List (PTX) (including Defendants' objections).

Ex. 11 – Defendants' Trial Exhibit List (DTX) (including Plaintiff's objections).

Ex. 12 – Joint Trial Exhibit List (JTX).

Ex. 13 – Plaintiff's Brief Statement of Intended Proofs.

Ex. 14 – Defendants' Brief Statement of Intended Proofs.

Ex. 15 – Plaintiff's Statement of Additional Matters.

Ex. 16 – Defendants' Statement of Additional Matters.

Ex. 17 – Plaintiff's Experts' CVs.

Ex. 18 – Defendants' Experts' CVs.

Ex. 19 – Plaintiff's Motion(s) *in Limine*, Defendants' Opposition(s), Plaintiff's Reply, and Exhibits Thereto.

Ex. 20 – Defendants' Motion(s) *in Limine*, Plaintiff's Opposition(s), Defendants' Reply, and Exhibits Thereto.

Dated: January 10, 2022

MORRIS, NICHOLS, ARSHT & TUNNELL LLP

SHAW KELLER LLP

/s/ Derek J. Fahnestock

/s/ Karen E. Keller

Karen Jacobs (#2881)
Derek J. Fahnestock (#4705)
1201 North Market Street
P.O. Box 1347
Wilmington, DE 19899
(302) 658-9200
kjacobs@morrisnichols.com
dfahnestock@morrisnichols.com

John W. Shaw (#3362)
Karen E. Keller (#4489)
Nathan R. Hoeschen (#6232)
I.M. Pei Building
1105 North Market Street, 12th Floor
Wilmington, DE 19801
(302) 298-0700
jshaw@shawkeller.com
kkeller@shawkeller.com
dfry@shawkeller.com
nhoeschen@shawkeller.com

*Attorneys for Plaintiff
Vanda Pharmaceuticals Inc.*

*Attorneys for Defendant
Teva Pharmaceuticals USA, Inc.*

OF COUNSEL:

OF COUNSEL:

Nicholas Groombridge
Eric Alan Stone
Josephine Young
Daniel J. Klein
Jennifer Rea Deneault
Michael F. Milea
Jacob M. Berman
PAUL, WEISS, RIFKIND, WHARTON
& GARRISON LLP
1285 Avenue of the Americas
New York, NY 10019
(212) 373-3000

J.C. Rozendaal
Deirdre M. Wells
William H. Milliken
Sasha S. Rao
STERNE, KESSLER, GOLDSTEIN
& FOX P.L.L.C.
1100 New York Avenue, N.W., Suite 600
Washington, DC 20005
(202) 772-8747

COZEN O'CONNOR

PHILLIPS, McLAUGHLIN, & HALL

/s/ Thomas Francella

/s/ John C. Phillips, Jr.

Thomas Francella (#3835)
1201 North Market Street, Suite 1001
Wilmington, DE 19801
(302) 295-2025
tfrancella@cozen.com

John C. Phillips, Jr. (#110)
David A. Bilson (#4986)
1200 North Broom Street
Wilmington, DE 19806
(302) 655-4200
jcp@pmhdelaw.com
dab@pmhdelaw.com

*Attorneys for Defendants Apotex Inc.
and Apotex Corp.*

*Attorneys for Defendants MSN
Pharmaceuticals Inc. and MSN Laboratories
Private Limited*

OF COUNSEL:

OF COUNSEL:

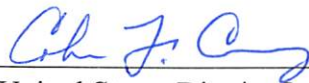
Barry P. Golob
W. Blake Coblenz
Aaron S. Lukas
COZEN O'CONNOR
1200 Nineteenth Street N.W.
Washington, DC 20036
(202) 912-4800

Keri L. Schaubert
COZEN O'CONNOR
3 WTC, 175 Greenwich Street, 55th Fl. New
York, NY 10007
(212) 509-9400

Bryce A. Cooper
Maureen L. Rurka
Reid F. Smith
WINSTON & STRAWN LLP
35 West Wacker Drive
Chicago, IL 60601
(312) 558-5600

Noorossadat Torabi
WINSTON & STRAWN LLP
101 California Street, 35th Fl.
San Francisco, CA 94111

SO ORDERED this 11th day of January, 2022.



Chief United States District Judge